

**EDUCATION AND WORKFORCE DEVELOPMENT CABINET**  
**Kentucky Commission on the Deaf and Hard of Hearing**  
**(Amendment)**

**735 KAR 1:020. Processing system including vendor participation, security, and maintenance and repair for specialized telecommunications equipment.**

RELATES TO: KRS 12.290, Chapter 45A, 61.878, KRS 163.525-527, 278.5499~~163.500-163.527, 334.010(9)~~, 334.020, 29 U.S.C. 794, 42 U.S.C. 12101

STATUTORY AUTHORITY: KRS 12.290, 163.525(5)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 12.290 requires each administrative body of state government to promulgate administrative regulations in compliance with federal mandates to provide accessibility to services by persons who are deaf or hard of hearing. KRS 163.525(5) requires the Commission on the Deaf and Hard of Hearing to promulgate administrative regulations to establish procedures for application for, and distribution of, telecommunications devices. This administrative regulation establishes procedures for specialized telecommunications equipment vendors, for security, and for maintenance and repair.

Section 1. Definitions. (1) "Applicant" means a person who applies to receive specialized telecommunications equipment under the auspices of the KCDHH Telecommunications Access Program.

(2) "Application" means the current KCDHH Telecommunications Access Program application entitled "Telecommunications Access Program Application and Certification" both hard-copy and electronic.

(3) "Approved date" means the date that all supporting documentation for the application is received and verified by the KCDHH.

(4) "APRN" means Advanced Practice Registered Nurse licensed by the Kentucky Board of Nursing.

(5) "Audiologist" is defined at KRS 334A.020(5), and is limited to a person licensed by the board, as defined at KRS 334A.020(1).

(6) "Certification" means professional verification of the extent and permanence of the applicant's disability.

(7) "Deaf" and "hard of hearing" are defined by KRS 163.500.

(8) "Deaf-blind" means an individual whose primary disability is deafness and secondary disability is vision impairment.

(9) "ENT" or Otolaryngologist, for purposes of KAR 1:010 and 1:020, means a medical professional trained in the medical and surgical management of patients with diseases and disorders of the ear, nose and throat.

(10)~~(9)~~ "Fiscal constraint" means when seventy-five (75) percent of annual program funds have been disbursed or encumbered.

(11)~~(10)~~ "Hearing instrument specialist" means "specialist in hearing instruments" as defined at KRS 334.010(9).

(12)~~(11)~~ "KCDHH" means the Kentucky Commission on the Deaf and Hard of Hearing, as described at KRS 163.506.

(13)~~(12)~~ "Physician" means a person:

(a) With a medical degree;

(b) Licensed by the state in which he or she practices medicine; and

(c) Recognized, by the state Board of Medical Licensure in the state in which the physician practices, as a specialist in:

1. Family practice;
2. General practice;
3. Otolaryngology; or
4. Internal Medicine.

(14) "Physician Assistant Certified" (PAC) means a person licensed under KRS 311.840 to 311.862.

(15)[(13)] "Recipient" means a person who receives specialized telecommunications equipment under the auspices of the KCDHH Telecommunications Access Program.

(16)[(44)] "Specialized telecommunications equipment" or "STE" is defined by KRS 163.525(1)(a):

- (a) Telecommunication devices for the deaf;
- (b) Amplified telephones~~[Amplifiers]~~;
- (c) Voice carry over telephones;
- (d) Captioned telephones;
- (e) Visual, audible, or tactile ring signal devices; and
- (f) Appropriate wireless devices.

(17) "Speech-impaired" means a person with a communication disorder such as stuttering, impaired articulation, impaired language, or impaired voice that adversely affects the use of telecommunications access lines.

(18)[(45)] "Speech-language pathologist" means a person licensed by the Kentucky Board of Licensure for Speech-Language to engage in the treatment of speech-language pathology.

(19)[(46)] "Telecommunications Access Line" means the transmission of auditory, visual, and typed communication via electronic airwaves~~[air waves]~~ or hard-wired methods.

(20)[(47)] "Telecommunications Access Program" is defined by KRS 163.525(1)(b).

Section 2. Processing System. (1) The KCDHH shall use accounting procedures consistent with Commonwealth accounting practices in compliance with applicable sections of the Model Procurement Code, KRS Chapter 45.

(2) Contracting, purchasing, bidding, invoicing, and payment practices shall be conducted in accordance with applicable provisions of the Model Procurement Code, KRS Chapter 45A, and shall be applied uniformly to ~~[applicants and]~~ vendors.

(3) The KCDHH Telecommunications Access Program accounts shall be audited on a regular basis by the Auditor of Public Accounts.

Section 3. Vendor and Recipient Participation. (1) The vendor shall be responsible for complying with the provisions of the Model Procurement Code, KRS Chapter 45, as established in the contract between the vendor and KCDHH. The vendor shall:

- (a) Mail or otherwise deliver the STE directly to the recipient's Kentucky residence; and
- (b) Send the following to the KCDHH:
  1. An itemized invoice with the recipient's name and STE model and serial number; and
  2. A copy of the delivery receipt for the STE sent to the recipient.

(2) The vendor, in exchange for an itemized invoice and a copy of the delivery receipt, shall be paid by the KCDHH through the state accounting system~~[or a bank,]~~ pursuant to the Memorandum of Agreement established between the Public Service Commission and the KCDHH.

(3) The recipient shall be responsible for any costs involved in having features not specified in the vendor contract added to their STE. This includes the responsibility for the maintenance and repair of those features not specified in the vendor contract.

(4) Ownership rights and responsibilities for the STE shall belong to the recipient, as evidenced by the recipient's copy of the delivery receipt. Equipment obtained under this program

shall not be sold, loaned, gifted or otherwise transferred out of the possession of the originally authorized recipient. Any person who attempts to sell or who knowingly purchases stolen equipment shall be disqualified from the program indefinitely~~[prosecuted to the fullest extent of the law]~~.

(a) A recipient shall not be responsible for the actual maintenance and repair of the equipment during the applicable warranty period. In order to have a malfunctioning STE repaired, the recipient shall:

1. Contact the KCDHH, or the vendor if applicable to the contract; and
2. Comply with the repair and maintenance procedures established in Section 5 of this administrative regulation.

(b) Each recipient shall:

1. Assume responsibility for monthly maintenance of the telecommunications access line as described in 735 KAR 1:010; and
2. Pay for other general costs and supplies associated with the functions and use of the STE.

(c) A recipient shall be responsible for the loss of an STE received under the auspices of the KCDHH Telecommunications Access Program.

Section 4. Security. (1) The recipient shall notify the KCDHH within ten (10) working days if the equipment is lost or damaged; and

(2) File a police report and send it to KCDHH, if the equipment is stolen.

Section 5. Maintenance and Repair Procedures. (1) A recipient shall report equipment in need of repair to the KCDHH or the vendor if applicable to the contract. If applicable, the Telecommunications Access Program staff shall inform the recipient of:

- (a) The mailing address and telephone number of the manufacturer; and
- (b) The purchase order number for the equipment.

(2) The recipient shall:

(a) Report the problem to the vendor that distributed the equipment, as instructed by Telecommunications Access Program staff.~~[manufacturer]~~;

(b) Ask that the appropriate vendor~~[manufacturer]~~ pay for shipping the defective equipment:

1. To the vendor's~~[manufacturer's]~~ designated place of repair; and
2. Back to the recipient, once repaired.

(3) The vendor~~[recipient]~~ shall determine from the contracted repair agent whether the STE is repaired or is not repairable. The vendor~~[recipient]~~ shall obtain and provide verification of the transaction to KCDHH. If the warranty period has ended, per the vendor's contract, the recipient shall assume financial responsibility for repair of the equipment.

(4) A recipient shall notify the KCDHH immediately of a change of residential address.

VIRGINIA L. MOORE, KCDHH Executive Director

APPROVED BY AGENCY: April 11, 2018

FILED WITH LRC: April 11, 2018 at 4 p.m.

PUBLIC HEARING AND PUBLIC COMMENT PERIOD: A public hearing on this administrative regulation shall be held on May 21, 2018, at 1:00 p.m. EST, at the Kentucky Commission on the Deaf and Hard of Hearing office located at 632 Versailles Road, Frankfort, KY. Individuals interested in being heard at this hearing shall notify this agency in writing by May 14, 2018, five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. This hearing is open to the public. Any person who wishes to be heard will be given an opportunity to comment on the

proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is received. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until May 31, 2018. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Virginia L. Moore, Executive Director, email [virginia.moore@ky.gov](mailto:virginia.moore@ky.gov), 632 Versailles Road, Frankfort, Kentucky 40601, phone (502) 573-2604 v/t, fax (502) 573-3594, or VP (502) 416-0607.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Virginia L. Moore

(1) Provide a brief summary of:

(a) What this administrative regulation does: The Telecommunications Access Program (TAP), administered by the Kentucky Commission on the Deaf and Hard of Hearing (KCDHH) was implemented in 1996 because of legislation enacted by the General Assembly in 1995. The TAP ensures equal access to telecommunication services by providing specialized telecommunications equipment (STE) to citizens of the Commonwealth who are deaf, hard of hearing or speech-impaired. This administrative regulation establishes the processing system for vendor participation in the TAP as well as outlining requirements for the security, maintenance and repair of the STE distributed.

(b) The necessity of this administrative regulation: This administrative regulation is necessary to implement the provisions of KRS 163.525(5), which mandates that the KCDHH establish a program to distribute STE to any deaf, hard of hearing, or speech-impaired individual that applies and is determined eligible to receive equipment.

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation conforms to the content of the authorizing statutes by establishing the processing system for vendors, security, and the maintenance and repair of equipment distributed through the TAP.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation establishes the processing requirements for vendors awarded a contract to distribute landline and wireless telecommunication devices, as well as describing security, maintenance and repair provision of the TAP.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment adds: a definition for physician assistant certified; speech impaired, and sanction of an electronic application; it also updates payment authority; clarifies repair procedures, which are also included in the vendor contract; adds the requirement to file a police report for a stolen device; and makes technical corrections.

(b) The necessity of the amendment to this administrative regulation: This amendment brings the regulation into compliance with procedures under the vendor's contracts and updates procedures for the repair and maintenance of STE.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment clarifies the parameters utilized to administer the program when working with vendors.

(d) How the amendment will assist in the effective administration of the statutes: This amendment clarifies both recipient and vendor responsibilities regarding repairs, adds a definition for another authorized professional, authorizes an electronic application to meet the needs

of today's applicants and updates payment procedures now utilized by state agencies.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: The TAP deals with major vendors of assistive technology for deaf, hard of hearing and speech-impaired consumers, of which there are 700,000 in Kentucky. State and local governments, and professionals in the field throughout Kentucky, refer consumers to the TAP for assistance with specialized telecommunications equipment. These entities will benefit from this amendment as it clarifies procedures, introduces the electronic application and strengthens repair and maintenance procedures.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: Entities identified in question (3) will not have to take any additional action to comply with the amendment, but will benefit from the ability to file an electronic application and will be better informed about procedures utilized to run the TAP.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There will be no change in the cost for agencies or consumers because of the amendment to this regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): Both consumers and agencies will benefit from information added to clarify TAP procedural operations.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: No change in cost to the administrative body to implement this amendment.

(b) On a continuing basis: No change in cost to the administrative body to implement this amendment.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Restricted Funds collected in compliance with KRS 278.5499 will support the implementation of this amendment and program operations.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new or by the change if it is an amendment: No increase in fees or funding is required to implement this amendment.

(8) State whether or not this administrative regulation established any fees or directly or indirectly increased any fees: No fees are directly or indirectly established or increased by this amendment.

(9) TIERING: Is tiering applied? Tiering of TAP applicants is applied in times of 'fiscal constraints', which is defined as 75% of program funds being disbursed or encumbered. The program will not be under fiscal constraints because of this amendment.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

(1) What units, parts or divisions of state or local government (including cities, counties fire departments, or school districts) will be impacted by this administrative regulation? No state or local government agencies will be fiscally impacted by this regulation or its amendment. State and local governments and businesses within the Commonwealth that provide support services to deaf, hard of hearing and speech-impaired individuals will benefit because of the distribution of STE, at no cost to the agency or the applicant, so that this population has equitable access to state services.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. State statutory authority; KRS 12.290, 163.525-527. Federal statutory authority; 29 U.S.C. Sec 794 and 42 U.S.C. Sec 12101.

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire department, or school districts) for the first full year the administrative regulation is to be in effect. There is no effect on the expenditures and revenues of state and local government agencies because of this amendment.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? No revenue will be generated initially because of this amendment.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? No revenue will be generated in subsequent years because of this amendment.

(c) How much will it cost to administer this program for the first year? Program costs are covered as part of the restricted funding source designated in KRS 278.5499 and will not increase because of this amendment.

(d) How much will it cost to administer this program for subsequent years? Program costs are covered as part of the restricted funding source designated in KRS 278.5499 and will not increase because of this amendment.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): The cost for administration of this program is included in the annual restricted fund budget allocation for KCDHH, and will not increase because of this amendment. There is no direct fiscal impact because of this amendment.

Expenditures (+/-): There is no increase in expenditures due to this amendment.

Other Explanation: None